

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-v-

TYRELL SUMPTER,

Defendant.

No. 18-cr-373-6 (RJS)  
ORDER

RICHARD J. SULLIVAN, Circuit Judge:

The Court is in receipt of a letter from Defense Counsel, filed ex parte, requesting that the Court adjourn the sentencing hearing scheduled for October 8, 2021 to a date when Linda (aka Elydia) Carswell is available to testify as a witness. Defense Counsel requests, in the alternative, that the Court sign a subpoena directing Ms. Carswell to appear and testify at the October 8<sup>th</sup> hearing. The Court has signed the subpoena, and the hearing will proceed on October 8<sup>th</sup> as originally scheduled. If Ms. Carswell is unavailable to testify on October 8<sup>th</sup>, the Court will consider continuing the hearing to permit Ms. Carswell to testify on another day.

Because Defense Counsel's letter discusses the testimony of a witness who is known to both parties, and who in fact was initially identified on the government's witness list, it is not clear why it is necessary for this communication with the Court to be conducted ex parte or under seal. *See United States v. Amodeo*, 71 F.3d 1044, 1050–51 (2d Cir. 1995). Accordingly, IT IS HEREBY ORDERED THAT Defense Counsel shall submit a letter to the Court by October 7, 2021 indicating why ex parte treatment and sealing is necessary.

The Court will delay the public docketing of this order and Defense Counsel's prior letter for at least 24 hours to allow Defense Counsel the opportunity to overcome the presumption of open records that applies to court filings.

SO ORDERED.

Dated: October 6, 2021  
New York, New York



RICHARD J. SULLIVAN  
UNITED STATES CIRCUIT JUDGE  
Sitting by Designation